REMARKS/ARGUMENTS

The claims have been amended as set forth above. No new matter has been added. Applicants respectfully request reconsideration.

I.   Examiner Interview Dated 5-1-07

An interview was held on May 1, 2007. Examiner Seye stated that the current changes indicate allowable subject matter. Applicants believe that an agreement has been reached.

II.   Rejection Under 35 U.S.C. 102(e)

Claims 1-4, 10-13, and 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication No. 2003/0231586 published to Chheda (hereinafter "Chheda"). Applicants respectfully disagree with the rejection. Independent claim 1 has been amended to include the following combination of features that are not taught or suggested by the cited references:

> initiating a gaming session between a host mobile device and a receiving mobile device for communicating the data, *wherein initiating a gaming session includes sending a notification from the host mobile device to indicate available protocols of the host mobile device, wherein initiating a gaming session includes receiving an acknowledgement of transmission from the receiving mobile device that includes available protocols of the receiving mobile device;*

> determining a first transport configured to communicate the data, wherein the first transport has a first transport protocol, *wherein the first transport is determined based on the notification and the acknowledgement of transmission;*

> determining a second transport configured to communicate the data, wherein the second transport has a second transport protocol, *wherein the second transport is determined based on the notification and the acknowledgement of transmission;*

> determining whether the first transport protocol corresponds to an optimal transport protocol for transmitting the data;

> switching the first transport protocol to the second transport protocol when a determination is made that the second transport protocol is the optimal transport protocol;

> transmitting the data according to the first transport protocol when the first transport protocol corresponds to the optimal transport protocol; and

transmitting the data according to the second transport protocol when the second
transport protocol corresponds to the optimal transport protocol.

The above combination of features are not taught or suggested by the cited reference.

Chheda teaches a telecommunications system. The telecommunications system may use several protocols based on the resources available. *Chheda*, at para. [0023]. The system tells the user's device which protocol is most efficient based on an algorithm. The algorithm makes a determination of code use and power use. The appropriate protocol is sent to the user device based on the determination of the algorithm. Chheda does not teach "initiating a gaming session between a host mobile device and a receiving mobile device for communicating the data, wherein initiating a gaming session includes sending a notification from the host mobile device to indicate available protocols of the host mobile device, wherein initiating a gaming session includes receiving an acknowledgement of transmission from the receiving mobile device that includes available protocols of the receiving mobile device." Chheda also fails to teach that the first and second transports are determined "based on the notification and the acknowledgement of transmission." Accordingly, applicants assert that claim 1 is allowable.

Independent claim 10 has been amended to include the following combination of features that are not taught or suggested by the cited references:

a processor;

a display;

a memory into which a plurality of computer-executable instructions are loaded, the computer-executable instructions performing a method comprising:

> initiating a gaming session between a host mobile device and a receiving mobile device for communicating data that is associated with a game application, *wherein initiating a gaming session includes sending a notification from the host mobile device to indicate available protocols of the host mobile device, wherein initiating a gaming session includes receiving an acknowledgement of transmission from the receiving mobile device that includes available protocols of the receiving mobile device*;

> determining a first transport configured to communicate the data, wherein the first transport has a first transport protocol, *wherein the first transport is determined based on the notification and the acknowledgement of transmission*;

determining a second transport configured to communicate the data, wherein the second transport has a second transport protocol, *wherein the second transport is determined based on the notification and the acknowledgement of transmission;*

determining whether the first transport protocol corresponds to an optimal transport protocol for transmitting the data;

switching the first transport protocol to the second transport protocol when a determination is made that the second transport protocol is the optimal transport protocol;

transmitting the data according to the first transport protocol when the first transport protocol corresponds to the optimal transport protocol; and

transmitting the data according to the second transport protocol when the second transport protocol corresponds to the optimal transport protocol, such that a switch between the first protocol and the second protocol is transparent to the user and the game application.

The above combination of features are not taught or suggested by the cited reference. Chheda does not teach "initiating a gaming session between a host mobile device and a receiving mobile device for communicating data that is associated with a game application, wherein initiating a gaming session includes sending a notification from the host mobile device to indicate available protocols of the host mobile device, wherein initiating a gaming session includes receiving an acknowledgement of transmission from the receiving mobile device that includes available protocols of the receiving mobile device." Chheda also fails to teach that the first and second transports are determined "based on the notification and the acknowledgement of transmission." Accordingly, applicants assert that claim 10 is allowable.

Independent claim 17 has been amended to include the following combination of features that are not taught or suggested by the cited references:

initiating a gaming session between a host mobile device and at least one receiving mobile device according to a first transport protocol, wherein address information and game information is transmitted from the host mobile device to at least one receiving mobile device;

receiving from the at least one receiving mobile device an acknowledgment of transmission that includes available protocols of the at least one receiving mobile device;

providing a first transport configured to communicate data, wherein the first transport has a first transport protocol, *wherein the first transport is determined based on the acknowledgement of transmission*;

providing a second transport configured to communicate the data, wherein the second transport has a second transport protocol, *wherein the second transport is determined based on the acknowledgement of transmission*;

determining whether the first transport protocol corresponds to an optimal transport protocol for transmitting the data from the host mobile device to at least one receiving mobile device, wherein the data is related to a game application;

switching the first transport protocol to the second transport protocol when a determination is made that the second transport protocol is the optimal transport protocol;

transmitting the data related to the game application according to the first transport protocol when the first transport protocol corresponds to the optimal transport protocol;

transmitting the data according to the second transport protocol when the second transport protocol corresponds to the optimal transport protocol; and

receiving additional data related to the game application from at least one receiving mobile device according to another optimal protocol that is determined by the receiving mobile device.

The above combination of features are not taught or suggested by the cited reference. Chheda does not teach "receiving from the at least one receiving mobile device an acknowledgment of transmission that includes available protocols of the at least one receiving mobile device." Chheda also fails to teach that the first and second transports are determined "based on the acknowledgement of transmission." Accordingly, applicants assert that claim 17 is allowable.

With regard to dependent claims 2-3, 11-13 and 18-20, those claims include features not taught or suggested bye Chheda. Furthermore, those claims depend from the independent claims above. As such, they should be found allowable for at least those same reasons.

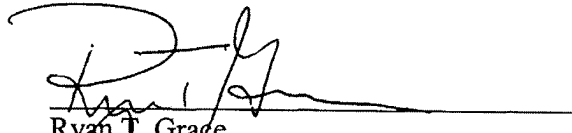### III.   Rejection Under 35 U.S.C. 103(a)

Claims 5-9, 13-14 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chheda in view of U.S. Patent No. 6,682,423 issued to Brosnan et al. (hereinafter "Brosnan"). Applicants respectfully disagree with the rejection. There is no suggestion in either of the references that they can be combined in the manner propounded. Furthermore, even if such an argument could be made, the claims include features that are not taught or suggested by the references. Also, claims 5-9, 13-14 and 21-22 depend from the independent claims above. As such, they should be found allowable for at least the same reasons as their respective independent claims.

VI.   Request For Reconsideration

In view of the foregoing amendments and remarks, all pending claims are believed to be allowable and the application is in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. Should the Examiner have any further issues regarding this application, the Examiner is requested to contact the undersigned attorney for the applicant at the telephone number provided below.

Respectfully submitted,

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